



**CITY COUNCIL**  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII

ORDINANCE 18-28  
BILL 26(2018)

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**A BILL FOR AN ORDINANCE**

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TO REZONE LAND SITUATED AT KANEOHE, OAHU, HAWAII.

BE IT ORDAINED by the People of the City and County of Honolulu.

SECTION 1. Zoning Map No. 23 (Kailua-Lanikai-Keolu), Ordinance No. 86-124, is hereby amended as follows: Land situated at 44-740 Kaneohe Bay Drive, Kaneohe, Oahu, Hawaii, hereinafter described, is hereby rezoned from the R-5 Residential District to the B-1 Neighborhood Business District. The boundaries of said District shall be described as shown on the map attached hereto, marked "Exhibit A" and made a part hereof, and further identified as Tax Map Key: 4-4-019:085.

SECTION 2. A Unilateral Agreement marked "Exhibit B" is by reference incorporated herein and made a part hereof.

DPP17Z-6.B18



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SECTION 3. This ordinance shall take effect upon its approval.

INTRODUCED BY:

*For me* (br)

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\_\_\_\_\_

DATE OF INTRODUCTION:

**MAR 15 2018**

Honolulu, Hawaii

Councilmembers

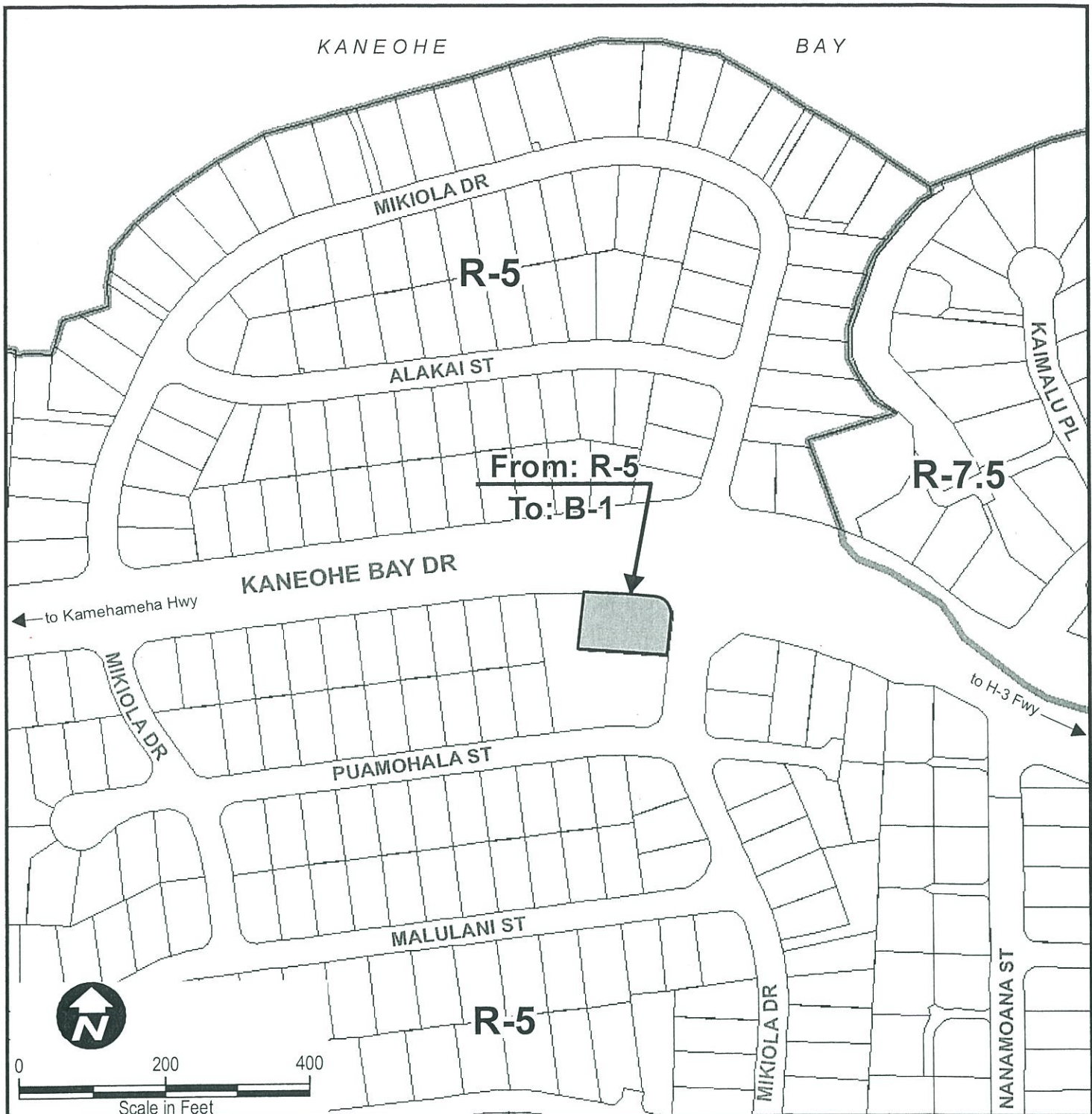
APPROVED AS TO FORM AND LEGALITY:

*Denise W. Wong*  
Deputy Corporation Counsel **DENISE W. WONG**

APPROVED this 25<sup>th</sup> day of July, 20 18.

*Kirk Caldwell*  
KIRK CALDWELL, Mayor  
City and County of Honolulu

EXHIBIT A  
(ZONING MAP NO. 23)



## ZONING MAP No. 23 (KAILUA-LANIKAI-KEOLU)

Land situated on the southwesterly corner of the easternmost intersection of Kaneohe Bay Drive and Mikiola Drive.

**APPLICANT:** Richard Maruya  
**TAX MAP KEY(S):** 4-4-019:085  
**FOLDER NO.:** 2017/Z-6  
**LAND AREA:** 10,001 S.F.  
**PREPARED BY:** DEPARTMENT OF PLANNING & PERMITTING  
 CITY AND COUNTY OF HONOLULU  
**PUBLIC HEARING:** PLANNING COMMISSION



ORD. NO. 18-28

EFF. DATE: JUL 25 2018

FEB 21 2018

EXHIBIT A

CITY COUNCIL  
JUN 06 2018

2017/Z-6



OFFICE OF THE  
ASSISTANT REGISTRAR, LAND COURT  
STATE OF HAWAII  
(Bureau of Conveyances)

The original of this document was  
recorded as follows:

DOCUMENT NO. \_ Doc T - 10409100  
CT 272417  
DATE/TIME \_ July 02, 2018 8:02 AM

LAND COURT SYSTEM

REGULAR SYSTEM

Return By Mail ( ) Pickup (X) To:

(This document contains 5 pages)

TITLE OF DOCUMENT: Unilateral Agreement and Declaration

PARTY TO DOCUMENT: R & R of Hawaii Inc.

PROPERTY DESCRIPTION: Lot 125-A-1-A, CT No. 272,417

TAX MAP KEY: (1) 4-4-019:085

**UNILATERAL AGREEMENT AND DECLARATION**

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), made this 29th day of June, 2018, by R & R of Hawaii Inc., a Hawaii corporation, whose address is 44-129 Mikiola Drive, Kaneohe, Hawaii 96744 (hereinafter referred to as the "Declarant"),

WITNESSETH

WHEREAS, the Declarant is the owner in the fee simple of that certain parcel of land situated at 44-740 Kaneohe Bay Drive, Kaneohe, City and County of Honolulu, State of Hawaii, consisting of approximately 10,001 square feet, described as Tax Map Key No. (1) 4-4-019: 085, and more particularly described in Exhibit A attached hereto and made a part hereof (the "Land"), and desires to make the Land subject to this Unilateral Agreement;

WHEREAS, the Declarant plans to continue to operate and use the Land and the structures thereon for the operation of a convenience store, and anticipates that future uses for the

Land may include reconstruction of the convenience store to add an accessory caretaker's dwelling, or the operation of a veterinary clinic; and

WHEREAS, the City Council (the "Council") of the City and County of Honolulu (the "City"), pursuant to the provisions of the Land Use Ordinance ("LUO"), Revised Ordinances of Honolulu 1990 ("ROH") Section 21-2.80, as amended, relating to conditional zoning, is considering a change in zoning under the LUO of the Land from the R-5 Residential District to the B-1 Neighborhood Business District (the "zone change"); and

WHEREAS, a public hearing regarding the change in zoning Bill 26 (2018), was held by the Council on June 6, 2018; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 210 (2018) that the said zone change be approved, subject to the following conditions contained in this Declaration to be made pursuant to the provisions of ROH Section 21-2.80, as amended, relating to conditional zoning, and to become effective on the effective date of the zoning ordinance approving the change of zoning (the "Rezoning Ordinance"):

NOW THEREFORE, the Declarant hereby covenants and declares as follows:

1. Transportation. Prior to the issuance of a building permit for a commercial or residential building representing an expansion or intensification of the use of the Land, the Declarant shall submit a Traffic Impact Analysis Report ("TIAR") to the State Department of Transportation. The TIAR must identify traffic impacts and associated mitigation measures directly attributable to vehicular rates being generated by the proposed commercial or residential building. Any mitigation measures to or along Kaneohe Bay Drive must be undertaken by the Declarant at no cost to the State of Hawaii. The DPP, in consultation with the State Department of Transportation and the City Department of Transportation Services, shall review and approve the TIAR.
2. Compliance with Other Governmental Requirements. The Declarant acknowledges that approval of the zone change does not constitute compliance with Land Use Ordinance ("LUO") or other governmental requirements. They are subject to separate review and approval. The Declarant shall be responsible for ensuring that final plans for any proposed development of the Land comply with all applicable LUO and other governmental provisions and requirements.
3. Annual Reports. On an annual basis, the Declarant shall submit a written status report to the DPP documenting its satisfaction of and/or describing its progress toward complying with each condition of approval for this zone change. The status report must be submitted to the DPP by December 31 of each year until such time as the DPP has determined that all conditions of approval have been satisfied.
4. Noncompliance with Conditions. In the event of noncompliance with any of the conditions set forth herein, the DPP Director shall inform the City Council, and may seek civil enforcement or take appropriate action to terminate or stop any proposed



development of the Land until applicable conditions are met, including but not limited to revoking any permits issued under this zoning and withholding issuance of other permits related to any proposed development of the Land. Noncompliance also may be grounds for the enactment of ordinances making further zone changes, including revocation of the underlying zoning, upon initiation by the proper parties in accordance with the Revised City Charter.

NOW, THEREFORE, the Declarant hereby makes the following additional Declarations:

As used herein, references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.

That the conditions imposed herein are reasonably conceived to fulfill public service demands created by the requested change in zoning and are rationally related to the objective or preserving the public health, safety and general welfare and the further implementation of the General Plan of the City and County of Honolulu.

That any development of the Land shall conform to the aforesaid conditions with the understanding that, at the request of the Declarant and upon the satisfaction of the conditions set forth in the Unilateral Agreement, the DPP may fully or partially release, as applicable, any of the foregoing conditions that have been fulfilled.

That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Land, the terms and conditions of this Unilateral Agreement shall apply.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the Land and shall bind and constitute notice to all parties hereto and subsequent lessees, grantees, assignees, mortgages, lienors, successors, and any other persons who have or claim to have an interest in the Land, and the City and County of Honolulu shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may file a petition with the DPP for amendment or removal of any conditions or termination of this Declaration, such petition to be processed in the same manner as petitions for zone changes.

IN WITNESS WHEREOF, the parties hereto have executed this Unilateral Agreement and Declaration for Zoning on the date and year first above written.

R&R OF HAWAII INC.

  
 By: Richard H. Maruya  
 Its: President

STATE OF HAWAII )  
 CITY AND COUNTY OF HONOLULU ) SS:  
 FIRST JUDICIAL CIRCUIT )

On June 29, 2018, before me personally appeared RICHARD H. MARUYA, to me personally known, who, being by me duly sworn (or affirmed), did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Document Description: Unilateral Agreement and Declaration

Doc. Date: June 29, 2018 No. pages: 5

[Signature] 6/29/18  
 Notary Signature Date

Name (printed): Malia M. Ruiz

My Commission expires: 12/05/2020

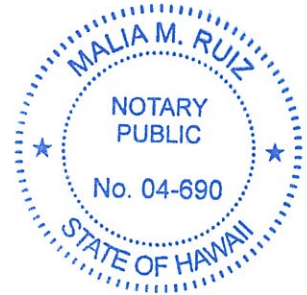




EXHIBIT A

Property Description

ALL of that certain parcel of land situate at Mikiola, Kaneohe District of Koolaupoko, City and County of Honolulu, State of Hawaii, described as follows:

LOT 125-A-1-A, area approximately 10,000 square feet, as shown on Map 61, filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Consolidation No. 31 of Retlaw Corporation, Limited;

TOGETHER WITH a perpetual right-of-way for road and utility purposes, in common with others thereunto entitled, over, across, and under Lot F as shown on Map 2 of said Land Court Consolidation.

BEING ALL OF THE LAND described in Transfer Certificate of Title Number 272,417 issued to R&R of Hawaii Inc., a Hawaii corporation.

CITY COUNCIL  
CITY AND COUNTY OF HONOLULU  
HONOLULU, HAWAII  
CERTIFICATE

ORDINANCE **18-28**

BILL 26 (2018)

Introduced: 03/15/18 By: RON MENOR – BY REQUEST Committee: ZONING AND HOUSING

Title: A BILL FOR AN ORDINANCE TO REZONE LAND SITUATED AT KANEOHE, OAHU, HAWAII.

Voting Legend: \* = Aye w/Reservations

03/28/18	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND HOUSING. 8 AYES: ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE. 1 ABSENT: ANDERSON.
04/14/18	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
05/03/18	ZONING AND HOUSING	CR-180 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING.
05/09/18	COUNCIL	CC-158 APPROVED. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
05/26/18	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
06/06/18	COUNCIL/PUBLIC HEARING	CR-180 ADOPTED. BILL PASSED SECOND READING, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND HOUSING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
06/13/18	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
06/28/18	ZONING AND HOUSING	CR-210 – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING.
07/11/18	COUNCIL	CR-210 ADOPTED AND BILL 26 (2018) PASSED THIRD READING. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA, MANAHAN, MARTIN, MENOR, OZAWA, PINE. 1 ABSENT: KOBAYASHI.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.

  
GLEN I. TAKAHASHI, CITY CLERK

  
ERNEST Y. MARTIN, CHAIR AND PRESIDING OFFICER

**18-28**